

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JESSE PEREZ,
Plaintiff,

v.

A GATES, et al.,
Defendants.

Case No. [13-cv-05359-VC](#)

ORDER

Under Fed. R. Evid. 403, the defendants are precluded from cross-examining the plaintiff about his First Amendment activity following October 10, 2012. *Cf. Brodheim v. Cry*, 584 F.3d 1262, 1271 (9th Cir. 2009) ("[A]n objective standard governs the chilling inquiry; a plaintiff does not have to show that 'his speech was actually inhibited or suppressed,' but rather that the adverse action at issue 'would chill or silence a person of ordinary firmness from future First Amendment activities.' To hold otherwise 'would be unjust' as it would 'allow a defendant to escape liability for a First Amendment violation merely because an unusually determined plaintiff persists in his protected activity.'" (quoting *Rhodes v. Robinson*, 408 F.3d 559, 568-69 (9th Cir. 2004)) (emphasis omitted)).

IT IS SO ORDERED.

Dated: November 16, 2015



VINCE CHHABRIA
United States District Judge